

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,

Plaintiff,

v.

2K GAMES, INC. and TAKE-TWO
INTERACTIVE SOFTWARE, INC. ,

Defendants.

CASE NO. 1:17-cv-02635-CAB

**DEFENDANTS' UNOPPOSED MOTION TO PARTICIPATE IN
SETTLEMENT CONFERENCE REMOTELY**

On April 29, 2021, this Court scheduled a Settlement Conference for September 9, 2021 at 2:00 p.m. Although the scheduling order does not say specifically, Defendants 2K Games, Inc. and Take-Two Interactive Software, Inc. (together, "Defendants") believe the Court intends to conduct the conference in person. Defendants respectfully request the Court's permission to participate in the conference remotely, either by telephone or by video conference (*e.g.*, Zoom), and ask the Court to consider whether the settlement conference as a whole should be conducted remotely.

In support of this Motion, Defendants submit that their party representative lives in San Diego, California and would need to travel by airplane to Cleveland, Ohio to attend an in-person settlement conference. Defendants' party representative has young children who have not yet been vaccinated against the COVID-19 virus, and she is concerned that traveling by airplane will expose her and, by extension, her children to the virus. Granting this Motion would help mitigate these risks. Doing so would also be consistent with the August 24, 2021 Amended General Order issued by the Northern District of Ohio, in which the Court acknowledges that

there is a “continued threat to public health and safety posed by COVID-19.” *See Amended General Order No. 2020-08.* Moreover, Defendants’ counsel live and work in New York and would also need to travel by airplane to attend the conference. Granting this motion would thus save the expense, burden, and COVID-19 health risks associated with counsel’s flights as well.

Defendants do not believe that conducting the settlement conference remotely would diminish, in any way, the effectiveness of the conference or prejudice the case. Indeed, the COVID-19 pandemic has meant that both Defendants’ party representative and their counsel are very familiar with remote conferencing platforms. Defendants would expect that Plaintiff is similarly adept at remote conferencing, particularly as five expert deposition have or will be conducted in this case via video conference. Granting this request would serve the main purpose of the Federal Civil Rules of Civil Procedure: “to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1.

Plaintiff does not oppose Defendants’ request to attend the conference virtually, but has informed Defendants that, because they live in Cleveland, he and his counsel nonetheless plan to attend in person. Defendants defer to the Court as to its preferences with regard to a hybrid settlement conference, but note that the conference likely would be more orderly and productive if all participants participated remotely and were on the same footing.

For these reasons, Defendants respectfully request that the Court grant this motion; permit Defendants to participate in the September 9, 2021 settlement conference remotely, either by telephone or by video conference; and consider whether the settlement conference as a whole should be conducted remotely.

Respectfully submitted,

Dated: August 27, 2021

/s/ Dale M. Cendali

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2021, a copy of the foregoing was filed electronically.

Notice of this filing was sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt, and parties may access this filing through the Court's system.

Dated: August 27, 2021

/s/ Dale M. Cendali

Dale M. Cendali